



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-B-

DATE: JUNE 28, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director, Vermont Service Center, denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. The Director concluded that the Petitioner did not submit sufficient evidence to establish that he married his U.S. citizen spouse in good faith and that she battered or subjected him to extreme cruelty. On appeal, we remanded the Director's denial for further action. The Director again denied the Form I-360 and certified the decision to us for review. We affirmed the Director's certified denial of the Form I-360. The Petitioner subsequently filed seven motions to reopen and reconsider. We denied each motion and found that the Petitioner had not established eligibility for classification under section 204(a)(1)(A)(iii) of the Act. Our previous decisions are incorporated here by reference.

The matter is now before us on an eighth motion to reopen and reconsider. On motion, the Petitioner submits a brief and additional evidence. The Petitioner claims that he has submitted sufficient evidence to establish that his U.S. citizen wife battered him or subjected him to extreme cruelty, and that he married her in good faith.

Upon review, we will deny the motion.

I. APPLICABLE LAW

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

(b)(6)

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II. ANALYSIS

On motion, the Petitioner submits a brief that is substantially similar to briefs he previously provided. He includes new evidence in the form of news articles and letters revealing that he has been credited with taking control of a driverless tourist bus in [REDACTED], and saving the lives of the passengers by safely bringing the bus to a halt. While this information reflects favorably on the Petitioner's actions, it does not relate to his claims of abuse and good-faith marriage or otherwise establish that our prior decisions were incorrect.¹

Although the Petitioner has submitted new facts in support of his motion to reopen, those facts are unrelated to his claims for eligibility and are not sufficient to overcome our prior determinations. Further, he has not met the requirements of a motion to reconsider by citing binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied law or agency policy or was incorrect based on the relevant evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). Consequently, the motions must be denied.

III. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of S-B-*, ID# 16955 (AAO June 28, 2016)

¹ The news articles indicate that the Petitioner is now remarried, and the Petitioner provides a birth certificate for his child reflecting the name of the woman who is described as his current wife in the news articles. This information indicates that the Petitioner is now precluded from establishing eligibility for the requested immigrant classification, having remarried prior to the approval of the VAWA petition filed based upon his marriage to his former spouse. See 8 C.F.R. § 204.2(c)(1)(ii).